IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE TWENTY SEVENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT APPEAL No. 1833 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 30/08/2001 in WP No. 5289 OF 2004 on the file of the High Court.)

Between:

1. D. Murali, S/o. Satyanarayana,
R/o. Ameerpet, Hyderabad.
2. P. Murali, S/o. Satyanarayana Raju,
R/o. Seethammadhara, Visakhapatnam.
3. P.Sharmila, S/o. P.M.M. Raju,
R/o. Seethammadhara, Visakhapatnam.
4. P. Sudhakar, S/o. Venkateswara Rao,
R/o. Ameerpet, Hyderabad.
5. Chalasani Nagendra Babu, S/o. Veerabhadra Rao,
R/o. Seethammadhara, Visakhapatnam.
6. Chalasani Suresh, S/o. Nagendra Babu,
R/o. Seethammadhara, Visakhapatnam.
7. Chalasani Venkatadri, S/o. Nagendra Babu,
R/o. Seethammadhara, Visakhapatnam.
8. K. Jagan Mohan Kumar, S/o. Uma Maheswara Rao,
R/o. Visakhapatnam.
9. K. Sri Divya, D/o. Uma Maheswara Rao,
R/o. Visakhapatnam.
10.K. Venkateswara Rao, S/o. Narayana Rao,
R/o. Srinagar Colony, Hyderabad.

..... APPELLANTS

AND

1. Akkaraboyina Vijayalakshmi, W/o. Late Appala Narasinga Raju, rep. by GPA

holder P. Narasimha Raju, S/o. Late Venkata Rama Raju, R/o. Punjagutta, Hyderabad.
2.The Joint Collector, Visakhapatnam, Visakhapatnam District.
3.The Mandal Revenue Officer, Chinagadili Mandal, Visakhapatnam Rural,Visakhapatnam District.
4. The Visakhapatnam Urban Development Authority Rep by its Vice-Chairman, Visakhapatnam.
5. Akkaraboyina Aditya, S/o. Smt. Vijaya Lakshmi,
R/o. Andhra Bank Colony Lawsons Boy Colony, Visakhapatnam, Rep by his Guardian, Smt. Geetha Ragamnai, R/o. Visakhapatnam.

.....RESPONDENTS

Counsel for the Appellants: Mr.D.V.SITARAMAMURTHY

Counsel for Respondent No.1: MR.N.V.RANGANADHAM

Counsel for Respondents 2 & 3: G.P. for Revenue.

Counsel for Respondent No.4: Ms. Sumalini Reddy

Counsel for Respondent No.5: Mr. Y.Sudhakar.

The Court made the following :

ORAL JUDGMENT:

(per Honourable Sri Devinder Gupta, the Chief Justice)

The appellants were not arrayed as parties to the Writ Petition filed by Akkaraboyina Vijayalakshmi. She filed Writ Petition No.5289 of 1993 through General Power of Attorney holder, Penumatcha Narasimha Raju, seeking a direction against the official respondents not to cancel her patta in respect of dry land of an extent of 5 Acres under cultivation in Survey No. 335/3 situated in Madhurawada village, Chinagadili Mandal, Visakhapatnam District without conducting enquiry. She had alleged that her father-in-law, Akkaraboyina Narasimhulu brought about 5 acres of land in Madhurawada, which was in Vizanagaram estate managed by the Estate

Manager. He had applied for grant of patta and after enquiry patta was granted. After making further allegations, it was alleged that the said patta has been cancelled without any notice to her, who had a rightful claim to the land, and, Government had decided to grant land to the political sufferer, which could not be done, since the order of cancellation of patta was bad, and, thus, Writ Petition was filed. It was resisted by the State Government on the ground that the land had rightly been granted to a political sufferer. Learned Single Judge allowed the Writ Petition with direction to the official respondents to restore back the possession of the petitioner within a period of three months.

The appellants filed the Writ Appeal seeking leave to question the legality and validity of the order on the ground that they were affected persons and were not heard when the Writ Petition was decided. They allege that one Gokaraju Suryanarayana Raju, a political sufferer had been assigned the land after cancellation of the B-Form patta granted to the father-in-law of the petitioner. Appellants were innocent purchasers for valuable consideration without notice by registered documents executed by Sri D.Nageswara Rao and K.Seetha Rama Raju, who in turn purchased the land by registered sale deeds from Sri Gokaraju Suryanarayana Raju. It has also been alleged in the Memorandum of Appeal that the Writ Petitioner died on 3.8.1997, and, the General Power of Attorney holder had no right thereafter to continue to appear in the case. There was no representation before the Court when the learned Single Judge allowed the Writ Petition on 30.8.2001.

After appeal was filed, on an application moved, legal representative of the deceased writ petitioner, Akkaraboyina Vijayalakshmi, was brought on record as the fifth respondent. The learned counsel for the appellant submits that a fact has come to his notice that originally, writ petitioner has appointed her adopted son to be her successor, and, therefore, Akkaraboyina Aditya is not the legal representative of the writ petitioner. It has also come to his notice that patta issued in favour of the writ petitioner's predecessor was also cancelled and the said cancellation is subject matter of the Writ Petition pending in this Court.

We need not go into all the questions aforementioned, inasmuch as, we are of the

view that since the appellants were affected persons, even, according to the averments made by the writ petitioner in the writ petition, that B-Form patta granted in favour of her father-in-law had been cancelled and the Government was contemplating to make grant in favour of a political sufferer. Appellants are claiming the title through the transferee of the said political sufferer. As on the date when the writ petition was decided, the title is being claimed by the appellants on the basis of the registered documents. Therefore, it was but appropriate that the Writ Petition would have been dismissed, since nobody was before the Court as on that date, or, appellants could have been heard and decided. Consequently, we allow the appeal, set aside the impugned order and direct that writ petition be decided afresh in accordance with law. Appellants will also be arrayed as respondents in the writ petition, and, it would be open for the 5th respondent herein to pursue the writ petition, but, in case a question is raised by the appellants herein about the locus standi of the 5th respondent, the matter of course will be decided by the learned Single Judge, in accordance with law. No costs.

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DEVINDER GUPTA, C.J.

27.1.2005.

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M.NARAYANA REDDY, J.

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